

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL WARD d/b/a BRAINTEASER
PUBLICATIONS,

Case No.: 12 Civ. 7987 (PAC)

Plaintiff,

-against-

ANDREWS MCMEEL PUBLISHING, LLC,

Defendant.

**DECLARATION OF ELEANOR M. LACKMAN IN SUPPORT
OF MOTION FOR LEAVE TO WITHDRAW AS COUNSEL**

I, ELEANOR M. LACKMAN, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member of the Bar of this Court and of the law firm of Cowan, DeBaets, Abrahams & Sheppard LLP (“CDAS”), which is currently co-counsel for plaintiff Michael Ward d/b/a Brainteaser Publications (“Plaintiff”). I make this declaration, pursuant to Local Civil Rule 1.4, in support of CDAS’ application to withdraw as counsel of record. I have personal knowledge of the matters set forth herein.

2. Although CDAS has served as counsel of record since the inception of this action on October 26, 2012, subsequent thereto, CDAS’ representation of Plaintiff has been largely limited to drafting and filing the complaint in this action and briefing and defending against defendant Andrews McMeel Publishing, LLC’s (“Defendant”) motion to dismiss, which was denied on August 1, 2013. In addition, I had a brief call with Defendant’s counsel regarding the schedule in this action.

3. With the exception of a minor amendment to the complaint on August 2013,

CDAS has rendered no further services on Plaintiff's behalf, chiefly, because discovery has just recently commenced. In fact, on September 17, 2013, the Court approved the parties' proposed Case Management Plan and Scheduling Order.

4. At around the same time, following the denial of Defendant's motion to dismiss, Plaintiff entered into a new arrangement with Barry E. Janay, Esq. of The Law Office of Barry E. Janay, P.C., to serve as lead discovery and trial counsel.

5. Plaintiff has not yet propounded or responded to discovery requests in this action, nor have the parties noticed or conducted depositions. Rather, discovery has been limited to Defendant's initial set of document requests and a third party subpoena, served on October 3, 2013 and October 15, 2013, respectively. In light of the very early procedural posture of this case, CDAS' limited representation of Plaintiff, and Plaintiff's new arrangement with Mr. Janay, Defendants should not be prejudiced by the withdrawal of CDAS and the substitution of Mr. Janay.

6. Moreover, it is readily apparent to both Plaintiff and counsel that this action does not justify the added expense and inefficiency that may result from representation by two separate law firms. Nonetheless, I have volunteered to make myself available to incoming counsel to answer any questions he may have relating to this matter and to otherwise ensure a smooth transition. Both Plaintiff and Mr. Janay have agreed to the arrangement requested herein.

7. I have known Mr. Janay for approximately 15 years and know him to be a highly competent attorney with experience in the fields of law implicated in this case. Through conversations and delivery of a full set of files to Mr. Janay, he has become fully familiar with the facts and issues in this case and is fully prepared to serve as lead trial counsel in this action.

8. In view of the foregoing, CDAS requests to withdraw its appearance.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 21, 2013
New York, New York



Eleanor M. Lackman